

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

03/14/19  
04:59 PM

Application of Cox California Telcom,  
LLC (U-5684-C) Requesting The  
Commission Not Require Cox to Pay  
Disputed Surcharge Amounts Identified  
in Audit Report

A.19-01-014  
(Filed January 29, 2019)

**PUBLIC VERSION**

**Attachment A  
to Protest of CPED**

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



November 22, 2016

Ms. Esther Northrup  
Cox Communications  
3466 Mt. Diablo Blvd.  
Suite C205  
Lafayette, CA 94549

SUBJECT: California Telecommunications Public Purpose Program (PPP) Surcharge and User Fee Compliance Examination of Cox Communications dated June 10, 2016 for the period of July 1, 2012 through June 30, 2013

Dear Ms. Northrup:

Crowe Horwath LLP (Crowe), an audit contractor for the California Public Utilities Commission (CPUC), has completed an examination of compliance with the rules, regulations, and requirements for assessment, collection, and remittance of California Universal Telecommunications Services Public Purpose Program (PPP) surcharges and PUC User Fees (User Fees) for the period July 1, 2012 through June 30, 2013, and issued a final examination report on June 10, 2016.

Based on Crowe's findings, Cox Communications owes [REDACTED] including interest, for underpaid PPP surcharges as summarized in the table below. The assessed interest on the PPP surcharge amount is 10% simple interest rate from the date the payment was due to the date the examination work was completed. The findings show that Cox Communications underpaid PPP surcharges due to Surcharges not applied to Primary Rate Interface (PRI) services, surcharges not applied to directory listing service revenues, and surcharges not applied to voicemail revenues.

| PPP Surcharge<br>Underpaid | Interest | Total |
|----------------------------|----------|-------|
| [REDACTED]                 |          |       |

Additionally, based on Crowe's findings, Cox Communications owes a total of [REDACTED] including penalties, to the CPUC for underpaid User Fees as summarized in the table below. The assessed penalty on the User Fee amount is 25%. The findings show that Cox Communications underpaid User Fees due to

| User Fee<br>Underpaid | Penalty | Total |
|-----------------------|---------|-------|
| [REDACTED]            |         |       |

If payment is not received by the CPUC by December 23, 2016, the CPUC may assess additional interest beginning on the original due date of the PPP surcharges and User Fees.

PPP surcharges and interest owed must be reported and remitted through the Telecommunication and User Fee Filing System (TUFFS) by December 23, 2016. Submit an Adjustment Request and report and remit all funds owed under the June 2013 pay period. For instructions on how to file, see the TUFFS User Guide, which is available on the CPUC website ([www.cpuc.ca.gov](http://www.cpuc.ca.gov)).

User Fees and penalties owed must be reported and remitted via a check payable to California Public Utilities Commission along with the required forms. For additional instructions and to receive the required User Fee forms, please contact Henok Kassegn (415-703-1967, [Henok.Kassegn@cpuc.ca.gov](mailto:Henok.Kassegn@cpuc.ca.gov)).

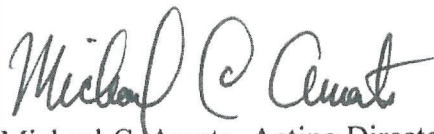
We appreciate your cooperation and assistance in facilitating the California Telecommunications Public Purpose Program (PPP) Surcharge and User Fee Compliance Examination.

Should you have any questions, please contact the following individuals:

|                              |                  |              |  |
|------------------------------|------------------|--------------|--|
| TUFFS Adjustment Request     | Michelle Wong    | 415-703-1968 | <a href="mailto:Michelle.Wong@cpuc.ca.gov">Michelle.Wong@cpuc.ca.gov</a>       |
| User Fees and TUFFS Payments | Henok Kassegn    | 415-703-1967 | <a href="mailto:Henok.Kassegn@cpuc.ca.gov">Henok.Kassegn@cpuc.ca.gov</a>       |
| CPUC Fiscal Office           | Michelle Morales | 415-703-2591 | <a href="mailto:Michelle.Morales@cpuc.ca.gov">Michelle.Morales@cpuc.ca.gov</a> |

For other questions, please contact Jonathan Lakritz at (415) 703-1590, or e-mail him at [jonathan.lakritz@cpuc.ca.gov](mailto:jonathan.lakritz@cpuc.ca.gov).

Sincerely,



Michael C. Amato, Acting Director  
Communications Division

cc: Jonathan Lakritz – Communications Division, CPUC  
Michelle Morales – Fiscal Services, CPUC  
Maryam Ebke - Executive Division, CPUC  
Kayode Kajopaiye – Division of Water & Audits, CPUC  
Donna Wagoner – Division of Water & Audits, CPUC  
Tracy Fok – Division of Water & Audits, CPUC



## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



April 5, 2018

Mr. Mark Dinunzio  
Directory, Regulatory Affairs  
Cox Communications (U-5684-C)  
1550 W. Deer Valley RD  
Phoenix, AZ 85027

SUBJECT: California Telecommunications Public Purpose Program (PPP) Surcharge and User Fee Analysis of Cox Communications (U-5684-C), dated October 28, 2017 for the periods of July 1, 2013 through June 30, 2014 and July 1, 2014 through June 30, 2015.

Dear Mr. Dinunzio:

Crowe Horwath LLP (Crowe), an audit contractor for the California Public Utilities Commission (CPUC), has completed an analysis of California's Telecommunications Public Purpose Program (PPP) surcharges and CPUC User Fee (User Fee) for the periods of July 1, 2013 through June 30, 2014 and July 1, 2014 through June 30, 2015, and issued a final report dated October 28, 2017 regarding this analysis. The findings show that Cox Communications underpaid PPP surcharges by [REDACTED] for 2013-2014, and [REDACTED] 2014-2015.

Based on Crowe's findings, Cox Communications owe [REDACTED] for 2013-2014 and [REDACTED] for 2014-2015, including interest, for underpaid PPP surcharges as summarized in the following tables. The assessed interest on the PPP surcharge amount is calculated at a 10% annual interest rate, from the date the payment was due to the date the examination was completed.

| 2013-2014               |           |          |       |
|-------------------------|-----------|----------|-------|
| PPP Surcharge Underpaid | Interest  | Total    |       |
|                         |           |          |       |
| Program Names           | Surcharge | Interest | Total |
| ULTS                    |           |          |       |
| DDTP                    |           |          |       |
| CHCF-A                  |           |          |       |
| CHCF-B                  |           |          |       |
| CTF                     |           |          |       |
| CASF                    |           |          |       |
| Total                   |           |          |       |



| 2014-2015               |           |          |       |
|-------------------------|-----------|----------|-------|
| PPP Surcharge Underpaid | Interest  | Total    |       |
|                         |           |          |       |
| Program Names           | Surcharge | Interest | Total |
| ULTS                    |           |          |       |
| DDTP                    |           |          |       |
| CHCF-A                  |           |          |       |
| CHCF-B                  |           |          |       |
| CTF                     |           |          |       |
| CASF                    |           |          |       |
| Total                   |           |          |       |

Additionally, based on Crowe's findings, Cox Communications owes a total of [REDACTED] for 2013-2014 [REDACTED] or 2014-2015 including penalties, to the CPUC for underpaid User Fees as summarized in the tables below. The assessed penalty on the User Fee amount is 25%.

| 2013-2014          |         |       |
|--------------------|---------|-------|
| User Fee Underpaid | Penalty | Total |
|                    |         |       |
| 2014-2015          |         |       |
| User Fee Underpaid | Penalty | Total |
|                    |         |       |

We request payment within 40 days. If payment is not received by the CPUC by May 15, 2018, interest will be assessed beginning on the original due date of the PPP surcharges and User Fees until payment is received. Failure to timely respond may also trigger Commission enforcement actions, resulting in additional penalties.

All PPP surcharges and interest owed must be reported and remitted through the Telecommunication and User Fee Filing System (TUFFS). To complete this requirement please submit an Adjustment Request and report and remit all funds owed under the **June 2014 and June 2015 pay periods**. For instructions on how to file, see the TUFFS User Guide, which is available on the CPUC website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

User Fees and penalties owed must be reported and remitted via a check payable to the California Public Utilities Commission along with the required forms. For additional instructions

and to receive the required User Fee forms, please contact Henok Kassegn by phone at 415-703-1967, or by email at [Henok.Kassegn@cpuc.ca.gov](mailto:Henok.Kassegn@cpuc.ca.gov).

We appreciate your cooperation and assistance in facilitating the California Telecommunications PPP Surcharge and User Fee Compliance Examination.

Should you have any questions about the payment processes, please contact the following individuals:

|                                    |                  |              |  |
|------------------------------------|------------------|--------------|--|
| TUFFS Surcharge Adjustment Process | Michelle Wong    | 415-703-1968 | <a href="mailto:Michelle.Wong@cpuc.ca.gov">Michelle.Wong@cpuc.ca.gov</a>       |
| User Fees and Adjustment Process   | Henok Kassegn    | 415-703-1967 | <a href="mailto:Henok.Kassegn@cpuc.ca.gov">Henok.Kassegn@cpuc.ca.gov</a>       |
| CPUC Fiscal Office                 | Michelle Morales | 415-703-2591 | <a href="mailto:Michelle.Morales@cpuc.ca.gov">Michelle.Morales@cpuc.ca.gov</a> |

For questions or concerns about the compliance examination, please contact Felix Robles by phone at (415) 703-2801, or by email at [felix.robles@cpuc.ca.gov](mailto:felix.robles@cpuc.ca.gov).

Sincerely,



Michael C. Amato, Deputy Director

Communications Division

cc: Felix Robles – Communications Division, CPUC  
Jonathan Lakritz – Communications Division, CPUC  
Michelle Morales – Fiscal Services, CPUC  
Maryam Ebke – Executive Division, CPUC  
Kayode Kajopaiye – Division of Water & Audits, CPUC  
Tracy Fok – Division of Water & Audits, CPUC  
Joe Healy – Communications Division, CPUC



October 18, 2018

**SENT VIA E-MAIL**  
[esther.northrup@cox.com](mailto:esther.northrup@cox.com)

Esther Northrup  
Executive Director, State Regulatory Affairs  
5887 Copley Drive, Suite 300  
San Diego, CA 92111

**Re: Cox California Telecom, LLC, (U-5684-C) Request for Reconsideration of October 28, 2017, Public Purpose Program Surcharge and User Fee Compliance Examination.**

Dear Ms. Northrup:

On behalf of the Communications Division (CD) Director, Cynthia Walker, I am responding to your dispute letters listed below:

1. March 8, 2018 –Response of Cox California Telecom, LLC to Crowe Horwath Analysis, dated October 28, 2017; and
2. May 2, 2018 – Request for Reconsideration of Cox California Telecom, LLC.

In the above letters, Cox California Telecom, LLC (Cox) disagrees with the Crowe Horwath (Crowe) California Telecommunications Public Purpose Program (PPP) Surcharge and User Fee Compliance Examination of Cox Communications, dated June 10, 2016, for fiscal year (FY): 2012-2013 (Examination Report”), and Crowe Horwath California Telecommunications Public Purpose Program Surcharge and User Fee Analysis of Cox Communications, dated October 28, 2017 for FY 2014-15 (“Analysis Report”).

Cox also disagrees<sup>1</sup> with CD’s demand letter dated April 5<sup>th</sup>, 2018. Crowe found that Cox under-remitted and under-reported [REDACTED] for PPP surcharges and associated interest an [REDACTED] the CPUC User Fee and associated penalties (FY 2013-2014) and (2) [REDACTED] for PPP surcharges and associated interest, an [REDACTED] User Fee and

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<sup>1</sup> See May 2, 2018, Cox California Telecom, LLC Request for Reconsideration, p. 2.



associated penalties (FY 2014-2015).<sup>2</sup> The total for both FYs 2012-2013 and 2014-2015 is [REDACTED] in overdue PPP surcharges, interest, User Fees, and penalties.

## **Discussion**

Cox makes the following objections to CD's demand letter:

1. Directory listing services are not services that the Commission may subject to PPP Surcharges or the User Fee;
2. The Commission should delay requiring payments related to directory listing services until the Commission addresses this service in R.17-06-023;
3. California law does not allow for the imposition of interest on the under-remitted surcharge amounts (whether disputed or undisputed) associated with the Deaf and Disabled Telecommunications Program (DDTP), California Teleconnect Fund (CTF), California Advanced Services Fund (CASF) and/or the California High Cost Fund Programs – the A and the B Funds;
4. Interest on LifeLine surcharges should be applied only until May 2017, when Cox submitted responsive data to Crowe; and
5. Neither applicable law nor the facts support the imposition of penalties on under-remitted User Fees.<sup>3</sup>

CD addresses each of these arguments below.

### **1. Directory Listing Services**

According to Cox, directory listing services are not subject to state surcharges because it is not a telecommunications service. Cox states: "Decision 96-10-066 establishes that the surcharges the Commission may adopt for its public policy programs are a percentage of the customers' total expenditures on intrastate telecommunications services. Directory listings are not a telecommunications service, under either federal or state law, and as such, revenues from those services are not subject to the PPP Surcharges or the User Fee."<sup>4</sup>

In the Examination Report's analysis and conclusion regarding whether directory listing services revenues should be subject to PPP surcharges and User Fees, Crowe stated:

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<sup>2</sup> April 5th, 2018, CD demand letter, California Telecommunications Public Purpose Program (PPP) Surcharge and User Fee Analysis of Cox Communications (U-5684-C), dated October 28, 2017 for the periods of July 1, 2013 through June 30, 2014 and July 1, 2014 through June 30, 2015, pp. 1-2.

<sup>3</sup> See May 2, 2018, Cox California Telecom, LLC Request for Reconsideration, p. 1.

<sup>4</sup> See May 2, 2018, Cox California Telecom, LLC Request for Reconsideration, p. 4.

**Finding 3: Surcharges and User Fees Not Applied to Directory Listing Service Revenues.<sup>5</sup>**

The CPUC provided guidance to Crowe that while Directory Listing service is discussed throughout D.96-10-066, Directory Listing is not mentioned by the Commission in this decision as one of the services excluded from the collection of PPP surcharges. Because Directory Listing (non-published) is not one of the services that the Commission has specifically exempted in D.96-10-066, the CPUC had indicated that service should be subject to PPP surcharges until the Commission orders otherwise.

The CPUC also indicates that in D.96-10-066, “Access to a directory listing” is one of the basic services listed that the Commission requires telecommunication carriers to provide as a universal service (page 152 of D.96-10-066). The CPUC indicates that the spirit of D.96-10-066 is to assess PPP surcharges on the basic services provided to paying intrastate customers and then use the PPP fund to subsidize universal services (the concept that basic service should be available to virtually everyone in California at affordable rates) provided to disadvantaged areas and/or customers. In its response above, Cox cited USAC's Form 499 which exempts “published directory services” from federal universal service surcharges. The CPUC’s Legal Division verified that the USAC does not require carriers to assess, collect and remit surcharge revenues on Directory Listing service (including Cox's “non-published service”) because they do not believe this service meets the statutory definition of telecommunication service which is defined as a transmission of information between two or more points (47 USC Sec. 153 (50)). However, the CPUC Legal Division found that there is no formal FCC order or ruling adopting this interpretation and likewise no FCC order prohibiting California from assessing surcharges on Directory Listing (non-published) service.

Absent an order from the FCC or other federal or state laws that explicitly deem directory listings to be exempt from federal or state surcharges, CD concurs with the Examination Report’s analysis and conclusion cited above.

**2. Delay Requiring Payments from Cox related to Directory Listing Services Until the Commission Addresses this Issue in R.17-06-023.**

Cox argues, “[i]n Rulemaking 17-06-023, the Commission is reviewing whether text messaging service should be subject to PPP Surcharges and the User Fee and CCTA has requested that the

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<sup>5</sup> California Telecommunications Public Purpose Program (PPP) Surcharge and User Fee Compliance Examination of Cox Communications, dated June 10, 2016, for fiscal year (FY): 2012-2013 (Examination Report”), p 18-19.

Commission also make the same determination with respect to directory listing services. Since this issue is currently pending before the Commission and a decision will be issued later this year, Cox respectfully requests that the Communications Division delay pursuing payment of the disputed amount discussed herein until the Commission issues an applicable decision in R.17-06-023.”<sup>6</sup>

CD disagrees with this proposal. The Commission’s surcharge rules in D.96-10-066 require the assessment of surcharges on telecommunications services unless a specific service is explicitly exempt. The Commission has not identified directory listing as an exempt service.<sup>7</sup> In the current phase of Rulemaking (R.)17-06-023, the Commission is only addressing text messaging service. It is unclear whether and when the directory listing issue will be addressed.

The audited periods for which Cox owes outstanding surcharges and user fees for directory listings are governed by D.96-10-066. Cox is therefore required, as the Examination Report and Analysis Report properly concluded, and consistent with D.96-10-066, to report those revenues derived from directory listing service and remit the associated [REDACTED] for the (2013-2014) and [REDACTED] 2014-2015) of surcharges, interest, user fees, and penalties due.

**3. Interest on under-remitted surcharge amounts (whether disputed or undisputed) associated with the Deaf and Disabled Telecommunications Program (DDTP), California Teleconnect Fund (CTF), California Advanced Services Fund (CASF) and/or the California High Cost Fund Programs – the A and the B Funds.**

Cox asserts that, “[e]xcept for interest on under-remitted ULTS surcharge, Cox disputes the imposition of interest on the other PPP Surcharge amounts that Cox owes with respect to the Cox Telecom Service. While GO 153, Rule 13 Audits and Records expressly states that interest may be imposed on under-remitted LifeLine program surcharges identified as part of an audit, this rule is specific to the LifeLine program. In no way does it authorize the imposition of interest on under-remitted surcharges for the other public policy programs, such as CHCF-A and CTF, as just two examples.”<sup>8</sup>

CD disagrees with Cox’s assertion, and directs the carrier to pay the assessed interest of [REDACTED] for the 2013-14 audit period and [REDACTED] for the 2014-2015 audit period. CD assesses a 10% interest on all six Public Purpose Programs across the board. Specifically, D.98-01-023 and G.O. 153 (Rule 11.4) upon which the CPUC’s Telecommunications and User Fee Filing System (TUFFS) User Guide is based, requires carriers who are late in remitting surcharges to pay a penalty equal to an annual interest rate of 10%.<sup>2</sup>

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<sup>6</sup> See May 2, 2018, Cox California Telecom, LLC Request for Reconsideration, pp. 7-8.

<sup>7</sup> See D.96-10-066.

<sup>8</sup> See May 2, 2018, Cox California Telecom, LLC Request for Reconsideration, p. 5.

<sup>2</sup> D.98-01-023, Ordering Paragraph 11. General Order 153: [http://docs.cpuc.ca.gov/word\\_pdf/general\\_order/154648.pdf](http://docs.cpuc.ca.gov/word_pdf/general_order/154648.pdf); see also The Telecommunications and User Fee Filing System (TUFFS) User Guide



#### **4. Period when Interest on LifeLine surcharges should be applied**

Cox contends that “[t]he April 5 Letter overstates the amount of interest Cox is required to pay on alleged under-remitted PPP Surcharges. Specifically, Cox understands that it is being assessed interest for amounts that Crowe Horwath deemed under-remitted for both directory listing services and the Cox Telecom Service from the 41st day after the close of the reporting period ‘to the date that the carrier reports the surcharge amount in TUFFs or remits surcharges, whichever is later.’ As detailed below, to the extent interest may be lawfully imposed for the under-remitted LifeLine surcharges, Cox submitted data to Crowe Horwath in May 2017, and thereby, interest should not be assessed for any period after May 2017.”<sup>10</sup>

CD denies Cox’s request. Cox failed to follow the CPUC’s surcharge directive, which states: “Surcharge funds must be reported and remitted no later than 40 days following the close of a reporting period. Carriers that report and/or remit surcharge funds after the due date will be charged a penalty equal to an annual rate of 10%. The penalty funds will be assessed on the surcharge amount due, including any adjustments, starting from the 41st day after the close of the reporting period to the date that the carrier reports or surcharge monies are remitted, whichever is later.”<sup>11</sup> The date that Cox submitted data responses to Crowe is thus inapposite. Accordingly, CD directs Cox to remit interest in the amount of [REDACTED] for 2013-2014 and [REDACTED] for 2014-2015.

#### **5. Penalty for under-remitted User Fees.**

Cox argues that “[b]ased on the 2017 Analysis, the April 5 Letter would impose a penalty of 25% on under-remitted User Fees. As detailed below, Cox disputes imposition of any penalty since (a) Crowe Horwath’s reliance on California Public Utilities Code, section 405 (“Section 405) is misplaced; (b) even if that statute were applicable, neither Staff nor a third party consultant have the authority to impose a penalty under that law; and (c) even if that statute were applicable, the facts at issue here do not support the imposition of a penalty on any of the under-remitted User Fee amounts.”<sup>12</sup>

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[http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Utilities\\_and\\_Industries/Communications\\_-\\_Telecommunications\\_and\\_Broadband/Service\\_Provider\\_Information/Surcharges/TUFFS\\_User\\_Guide\\_v5.2.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Communications_-_Telecommunications_and_Broadband/Service_Provider_Information/Surcharges/TUFFS_User_Guide_v5.2.pdf) p. 9.

<sup>10</sup> See May 2, 2018, Cox California Telecom, LLC Request for Reconsideration, p. 3.

<sup>11</sup> CPUC TELEPHONE SURCHARGE REPORTING AND PAYMENT FILING DIRECTIONS, <http://www.cpuc.ca.gov/General.aspx?id=9508>

<sup>12</sup> See May 2, 2018, Cox California Telecom, LLC Request for Reconsideration, p. 3.

CD does not find merit in Cox's argument. According to the CPUC User Fee Directive,<sup>13</sup> the TUFFS system will systematically enforce the late payment penalty of 25% of user fees due on delinquent payments. This late payment penalty is set forth in Public Utilities Code Section 405.<sup>14</sup> Therefore, Cox is required to pay the User Fee penalty [REDACTED] for 2012-2013 and [REDACTED] 2014-2015.<sup>15</sup>

## Conclusion

CD hereby directs Cox to release funds in its escrow account and remit payment in the total amount of [REDACTED] within 30 days of the date of this letter. If payment is not received by the due date, additional interest will be assessed beginning from the original due date of the PPP surcharges and User Fees until payment is received, as indicated in the April 5, 2018 demand letter.

If the Commission does not receive payment by this due date, CD will refer this matter for enforcement action, which may result in additional interest and penalties pursuant to Public Utilities Code §§ 2107 and 2018.

If you have questions about this matter, please contact Devla Singh at 415-703-1461 or email her at [devla.singh@cpuc.ca.gov](mailto:devla.singh@cpuc.ca.gov).

Sincerely,



Michael C. Amato  
Deputy Director, Communications Division

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<sup>13</sup> <http://www.cpuc.ca.gov/General.aspx?id=1009>

<sup>14</sup> P.U. Code. Sec 405: If any person or corporation subject to this chapter is in default of the preparation and submission of any report or the payment of any fee required by this chapter for a period of 30 days or more, the commission may suspend or revoke the certificate of public convenience and necessity, permit, or other operating authority of the person or corporation or order the person or corporation to cease and desist from conducting all operations subject to the jurisdiction of the commission, and the commission may estimate from all available information the appropriate fee and may add to the amount of that estimated fee a penalty not to exceed 25 percent of the amount on account of the failure, refusal, or neglect to prepare and submit the report or to pay the fee, and the person or corporation shall be estopped to complain of the amount of the commission's estimate.

<sup>15</sup> April 5, 2018, CD Demand Letter, California Telecommunications Public Purpose Program (PPP) Surcharge and User Fee Analysis of Sacramento Valley (U-3004-C), dated December 6, 2017 for the periods of July 1, 2013 through June 30, 2014 and July 1, 2014 through June 30, 2015. p. 2.





February 6, 2019

**SENT VIA E-MAIL**  
marg@tobiaslo.com

Marg Tobias  
Tobias Law office  
460 Pennsylvania Avenue  
San Francisco, CA 94107

**SUBJECT: Cox California Telecom, LLC, (U-5684-C) Dispute of Surcharge Audit**

Dear Ms. Tobias:

On behalf of the Communications Division (CD) Director, Cynthia Walker, I am responding to your January 18, 2019 request to review the disputed amounts of [REDACTED] for surcharges, interest, user fee, and penalties due. CD has reviewed Cox's December 11, 2018<sup>1</sup> email, January 18, 2019 letter,<sup>2</sup> and Cox's payments made for fiscal years (FY) 2013 through 2015. As a result of CD's review, CD hereby adjusts the amount due from Cox to [REDACTED].

CD confirmed with the Commission's fiscal office that Cox had already paid [REDACTED] for surcharges, user fee, and penalties applicable to FY 2013-2015. Cox also provided an escrow ledger<sup>3</sup> that reflected an amount of [REDACTED] that Cox had placed into an escrow account pending CD's review. However, this amount does not include the [REDACTED] user fee and penalty amount due for FY 2012-2013, which CD had previously demanded from Cox in CD's November 22, 2016 demand letter. Accordingly, CD has revised the amount now due from Cox to be [REDACTED].

Cox next states that "in terms of the disputed surcharge amounts, unless we can resolve the issue with Staff, Cox intends to file an application in which it will request the Commission address the issues resulting from Communications Division's ('CD') recent surcharge audits of Cox."<sup>4</sup> CD has reviewed the arguments Cox has raised in its dispute letters and CD confirms that Cox's directory listings service is subject to surcharge and user fee assessment, as well as the other conclusions in CD's October 18, 2018 Response Letter to Cox's Request for Reconsideration. The amounts that CD has demanded Cox remit have not accrued additional interest or penalties since Cox placed those amounts in escrow. While Cox may choose to file an application if it continues to disagree with CD's assessment, CD will refer this matter to the Commission's enforcement division for further Commission action if Cox does not remit the outstanding balance due, as detailed below.

<sup>1</sup> See Cox December 11, 2018 email (Cox-Follow up to November 26, 2018 meeting).

<sup>2</sup> See Cox January 18, 2019 Letter p.1.

<sup>3</sup> See Cox December 11, 2018 email (Cox-Follow up to November 26, 2018 meeting).

<sup>4</sup> See CD November 22, 2016, Demand Letter for FY 2012-2013.

<sup>5</sup> See CD April 5, 2018 Demand Letter for FY 2013-2015.

<sup>6</sup> Cox January 18, 2019 Letter, p. 1.



Finally, Cox argues “as a follow up to the Cox December Email regarding voice mail service being subject to surcharges and user fees, it appears that there has been no guidance on a change in CD’s practices provided to the industry to date....Cox was previously instructed to collect and remit surcharges and user fees for its voice mail service pursuant to a recent surcharge audit, Cox is requesting additional guidance from CD at this time.”<sup>7</sup>

CD provides the following guidance regarding voicemail service: carriers should exclude voicemail service revenue from their intrastate revenue calculation subject to Public Purpose Program (PPP) surcharges and user fee because the FCC has deemed voicemail service to be an information service, and as such voicemail service is not subject to surcharge. Requests for refunds of overpayment of surcharges and fees must be filed through the Government Claims Program. Information about this program, including the Government Claim Form, can be found at <http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx>. You should determine if any other administrative remedies should be considered and what statutes of limitations may be applicable to Cox’s claim.

### **Conclusion**

CD now directs Cox to release funds in its escrow account in the amount of [REDACTED] and to pay an additional [REDACTED] user fee and penalties for FY 2012-2013. Cox is to remit the total amount of [REDACTED] shown in the following tables by **February 15, 2019**. If the Commission does not receive payment by this due date, CD will refer this matter for enforcement action, which may result in additional interest and penalties pursuant to Pub. Util. Code §§ 2107 and 2108.

| 2013-2014               |           |          |       |
|-------------------------|-----------|----------|-------|
| PPP Surcharge Underpaid | Interest  |          | Total |
|                         |           |          |       |
| Program Names           | Surcharge | Interest | Total |
| ULTS                    |           |          |       |
| DDTP                    |           |          |       |
| CHCF-A                  |           |          |       |
| CHCF-B                  |           |          |       |
| CTF                     |           |          |       |
| CASF                    |           |          |       |

<sup>7</sup> See Cox January 18, 2019 Letter, pp.1-2.

<sup>8</sup> In the report “California Telecommunications Public Purpose Program Surcharge and User Fee Analysis of Cox Communications” dated October 28, 2017, it was determined that Cox owed a total of [REDACTED] PPP surcharges and related interest for FY 2013-2014. Cox paid [REDACTED] PPP surcharges and [REDACTED] interest for FY 2013-2014.

|              |  |
|--------------|--|
| <b>Total</b> |  |
|--------------|--|

| 2014-2015               |          |       |
|-------------------------|----------|-------|
| PPP Surcharge Underpaid | Interest | Total |

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

| Program Names | Surcharge | Interest | Total |
|---------------|-----------|----------|-------|
| ULTS          |           |          |       |
| DDTP          |           |          |       |
| CHCF-A        |           |          |       |
| CHCF-B        |           |          |       |
| CTF           |           |          |       |
| CASF          |           |          |       |
| <b>Total</b>  |           |          |       |

| 2012-2013          |         |       |
|--------------------|---------|-------|
| User Fee Underpaid | Penalty | Total |

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|

| 2013-2014          |         |       |
|--------------------|---------|-------|
| User Fee Underpaid | Penalty | Total |

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|

<sup>9</sup> In the report "California Telecommunications Public Purpose Program Surcharge and User Fee Analysis of Cox Communications" dated October 28, 2017, it was determined that Cox owed a total of [REDACTED] PPP surcharges and related interest for FY 2014-2015. Cox paid [REDACTED] PPP surcharges and [REDACTED] interest for FY 2013-2014.

<sup>10</sup> In the examination report "California Telecommunications Public Purpose Program Surcharge and User Fee Compliance Examination of Cox Communications" dated June 10, 2016, it was determined that Cox owed a total of [REDACTED] in User Fees and related penalties for FY 2012-2013. Cox has not paid any User Fees amount for FY 2012-2013.

<sup>11</sup> In the report "California Telecommunications Public Purpose Program Surcharge and User Fee Analysis of Cox Communications" dated October 28, 2017, it was determined that Cox owed a total of [REDACTED] in User Fees and related penalties for FY 2013-2014. Cox paid [REDACTED] of the User Fees and related penalties for FY 2013-2014.

| 2014-2015          |         |       |
|--------------------|---------|-------|
| User Fee Underpaid | Penalty | Total |
|                    |         |       |

If you have questions about this letter, please contact Ms. Devla Singh at 415-703-1461 or email her at [devla.singh@cpuc.ca.gov](mailto:devla.singh@cpuc.ca.gov).

Sincerely,



Michael C. Amato  
Deputy Director, Communications Division

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<sup>12</sup> In the report “California Telecommunications Public Purpose Program Surcharge and User Fee Analysis of Cox Communications” dated October 28, 2017, it was determined that Cox owed a total of [REDACTED] User Fees and related penalties for FY 2014-2015. Cox paid [REDACTED] the User Fees and related penalties for FY 2014-2015.